

Revised 03/06 WDNY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)

All material filed in this Court is now available via the INTERNET. See **Pro Se Privacy Notice** for further information.

1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: *NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.*

1. Mark Thomas Dublino

2. _____

-VS-

B. Full Name(s) of Defendant(s) *NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.*

1. <u>Sgt. Justin Biegaj</u>	4. <u>Sgt. Mr. Cross</u>
2. <u>Sgt. Robert Dee</u>	5. <u>Sgt. Mr. Robinson</u>
3. <u>Deputy Brian Thompson</u>	6. <u>Deputy Mr. P. Giardina</u>
7. <u>Deputy Framk Gelster</u>	8. <u>Deputy Shawn Wilson</u>

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION *NOTE: To list additional plaintiffs, use this format on another sheet of paper.*

Name and Prisoner Number of Plaintiff: Mark Thoams Dublino Din.# 18-B-0793

Present Place of Confinement & Address: 135 State Street

Auburn New York 13024

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

DEFENDANT'S INFORMATION NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Mr. Justin Biegaj

(If applicable) Official Position of Defendant: Sergeant

(If applicable) Defendant is Sued in X Individual and/or X Official Capacity

Address of Defendant: Erie County Holding Center

40 Delaware Avenue|| Buffalo New York 14202

Name of Defendant: Mr Robert Dee

(If applicable) Official Position of Defendant: Sergeant

(If applicable) Defendant is Sued in X Individual and/or X Official Capacity

Address of Defendant: 40 Delaware Avenue Buffalo New York 14202

Erie County Holsing Center

Name of Defendant: Mr. Brian Thompson

(If applicable) Official Position of Defendant: Deputy

(If applicable) Defendant is Sued in X Individual and/or X Official Capacity

Address of Defendant: Erie County Holding Center

40 Delaware Avenue Buffalo New York 14202

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
Yes X No

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): Mark Dublino

Defendant(s): James Thomas; Deputy Scott Harvey; Deputy Winegarden; Deputy Richeal;
Deputy Thompson; Deputy Bienko; Deputy Quirante

2. Court (if federal court, name the district; if state court, name the county): U.S. District Court
Western District of New York

3. Docket or Index Number: 6:18-cv-06010- DGL/MWP

4. Name of Judge to whom case was assigned: David G. Larimer & Marian W. Payson

5. Action filed on: January 4th 2018; The Disposition is still Pending.

DEFENDANTS Information (continued)

Name: Mr. Cross Official Position: Sergeant Sue in Official Capacity &
Address: Erie County Holding Center, 40 Delaware Ave, Buffalo, New York 14202 Individual Capacity

Name: Mr. Robinson Official Position: Sergeant Sue in Official Capacity &
Address: Erie County Holding Center, 40 Delaware Ave. Buffalo, New York 14202 Individual Capacity

Name: Mr. P. Giardina Official Position: Deputy Sue in Official Capacity &
Address: Erie County Holding Center, 40 Delaware Ave. Buffalo, New York 14202 Individual Capacity

Name: Mr. Frank Gelster Official Position: Deputy Sue in Official Capacity &
Address: Erie County Holding Center, 40 Delaware Ave. Buffalo, New York 14202 Individual Capacity

Name: Mr. Shawn Wilson Official Position: Deputy Sue in Official Capacity &
Address: Erie County Holding Center, 40 Delaware Ave. Buffalo, New York 14202 Individual Capacity

Previous Lawsuits in State and Federal Court (continued)

B. Have you begun any other lawsuits in Federal Court which relate to your imprisonment ?

Yes X No

Plaintiff: Mark Thomas Dublino

Defendant(s): Auburn Correctional Facility Et.Al. Timothy McCarthy, Superintendent Et.Al.
U.S. District Court, Northern District of New York

Docket Number: 9:19-cv-381 (GLS/DJS) Judge Gary L. Sharpe ; Magistrate Judge Daniel J. Stewart

Action filed on April 1st 2019; The Disposition of the case is still pending.

Plaintiff: Mark Dublino

Defendants: Wende Correctional Facility Et. Al.

U.S. District Court, Western District of New York (note; transferred from Northern District)

Docket Number: 6:19-cv-06354- (DGL) Judge David G. Larimer

New Action file date: May 14th 2019; The Disposition of the case is still pending

Plaintiff: Mark Dublino

Defendant: Anthony J. Annucci, Commissioner of Department of Corrections & Community Supervision

State of New York; County of Cayuga Supreme and County Courts

Index Number: 2019-0687 ; Justice Thomas G. Leone A.J.S.C.

Disposition to be held August 7th 2019 ; for an Art. 78

Amended Complaint Case 6:19-cv-06269-DGL Dublino v. Biegaj

Claim: On March 9th 2018|| The following defendants were involved with the description of the incident below:

Sgt. Justin Biegaj; Sgt. Robert Dee; Sgt. Cross; Sgt Robinson; Deputy Brian Thompson; Deputy Franl Gelster; Deputy P. Giardina; Deputy Shwn Wilson.

- 1.) Deputy Brian Thompson grabbed plaintiff Mark Dublino as he exited an attorney conference room (plaintiff left the room on his own free will) Deputy Thompson reacted to a remark made by plaintiffs attorney "Kick his f ckng ass"(explicit slang directness) Deputy Thompson ordered plaintiff to the ground; plaintiff followed this order; Then ordered the plaintiff to lie face down on the floor as he began to place handcuffs on the plaintiif; he lost control of the leashed dog which began to bite the plaintiffs legs.(Attach A & B)
- 2.) Sergeant Justin Biegaj was first additional officer at the scene and began to stomp and step on plaintiff while laying on the ground; targeting head and back area's. Plaintiff continues to hear "Kick his f ckng Ass" (Attachment "C")
- 3.) Sergeant Robert Dee and Shawn Wilson then grabbed plaintiffs arms and hands bending and twisting them in abnormal positions with extreme pressure.
- 4.) Sergeant Cross standing directly over plaintiff began stomping and stepping on plaintiff's lower extremities legs; ankles & feet; while plaintiff was lying on the floor.
- 5.) After restraints were applied plaintiff was unable to breathe due to pressure applied to the back area.
- 6.) Plaintiff was picked up off the ground by his arms and shoulders and then escorted to the infirmary barely able to walk. . On the outside corridor Sergeant Robinson ordered Deputy Frank Gelster and Deputy P. Giardina to "Wrech Him" The deputies responded by bending the plaintiffs arms and wrists with extreme pressure into the steel handcuffs.(Attach. "D")
- 7.) One hour later plaintiff continued receiving bending of the arms and wrists into the steel handcuffs "wrenching tactic" under the order of an unidentified officer to Deputies Gelster and Giardina. (In the infirmary) while medical practitioners were conducting only basic tests and vital signs. (Attachments "E" ; "F" & "G")
- 8.) Plaintiff was moved to Gulf East Keeplock status without personal property and legal paperwork including the plaintiffs sneakers and documents pertaining to: Dublino v. Terranova; 18-cv-6178-DGL. (Attachments "H"; "I" & "J")
- 9.) Plaintiff requested several issues to be addressed by staff officers and medical staff. To be taken to an independant hospital for an evaluation and x-rays for injuries to the head; back; shoulders; arms; wrists; legs and feet (ankle) All requests were denied.
- 10.) While plaintiff was housed in keeplock and constant obsevation; his requests for pen and paper; and a blank grievance form were denied along with personal visits. No disciplinary report or charges were brought against the plaintiff in reference to following direct orders or resisting officers reasonable response. These acts did not come under the reasonableness of an officials response; and other officers stood near bye and watched; causes a "deliberate indifference" Plaintiff was past pre-trial; yet not sentenced (creates grey area)
- 11.) Plaintiff was sentenced on March 23rd 2019; and transported immediately out of Erie County from the court room. Bypassing Wende Correctional Facility Reception located in Erie County. Instead plaintiff was moved to Elmira Correctional Facility. Plaintiff never had any opportunity to exhaust administrative remedies. As of today; Plaintiff still suffers from the injuries sustained in the mentioned incident. The officers involved conducted to restore discipline in a maliciously and sadistically approach to cause harm: & Did.

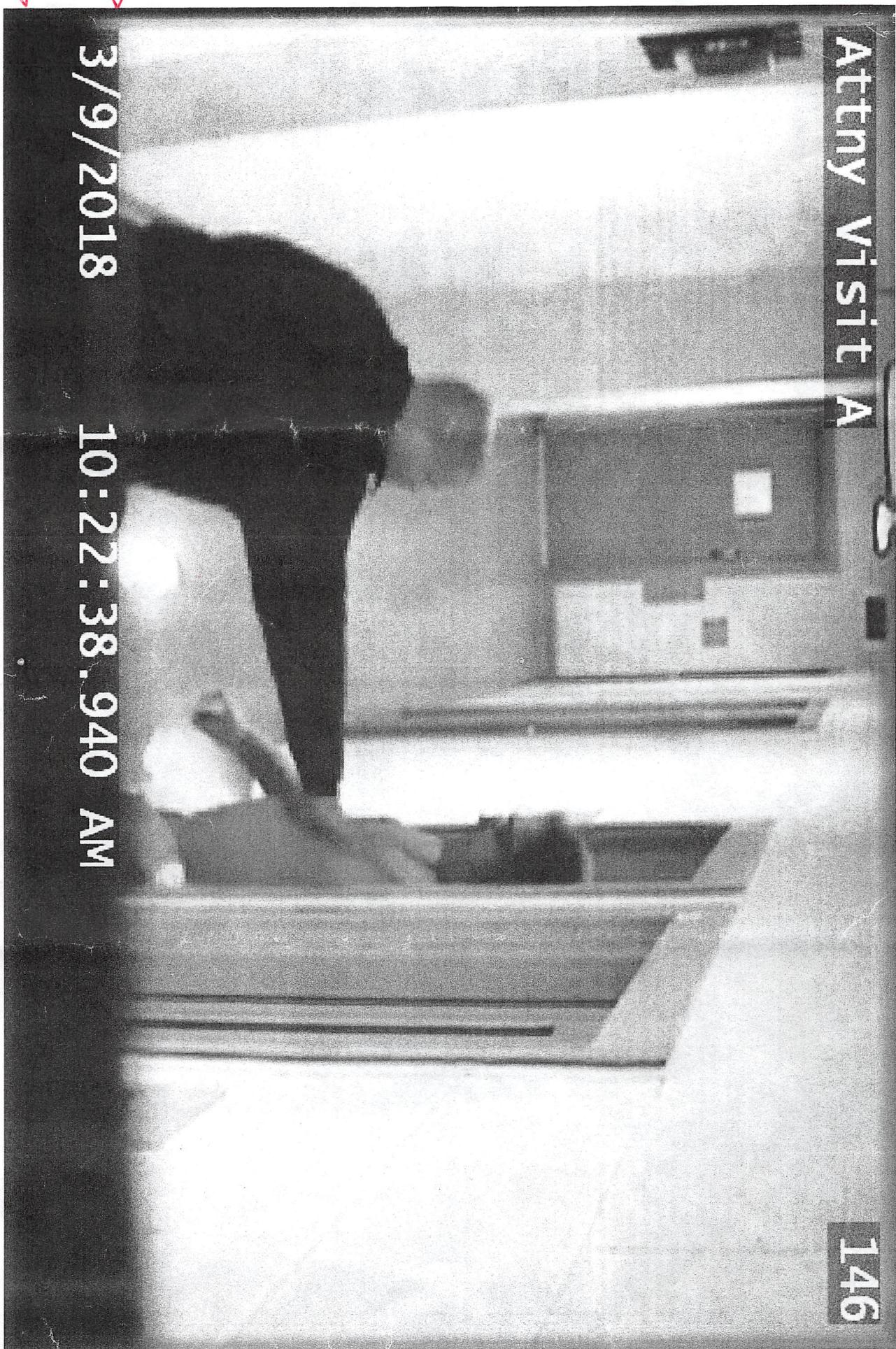
The Constitutional basis for this claim: 5th & 14th Amendment Violation; "Deliberate Indifference" Plaintiff is seeking relief for this claim in the form of compensatory and punitive damages for a total amount of (20) million dollars; for violating the "Due Process Clauses"

Plaintiff wants a Jury Trial. By Demand

I declare under Penalty of Perjury that the Foregoing is True and Correct


Signature Plaintiff

Executed on JULY 9th 2019



3/9/2018

10:22:38.940 AM

ATTACHMENT 'A'
DUBLINO V. BIEGAS 6:19-cv-06269-DGL AMENDED COMPLAINT
* ONLY A SELECTED FEW PHOTOS, PRODUCED BY ERIE COUNTY HOLDING CENTER *

Attny Visit A

146

NOTE: THIS PHOTO REFLECTS ALTERING BY CROPPING AND ZOOMING IN ON SUBJECTS
DONE WITH INTENTION TO OMIT DOCT FROM SCENE.
MARK DUBLINO
DUBLINO



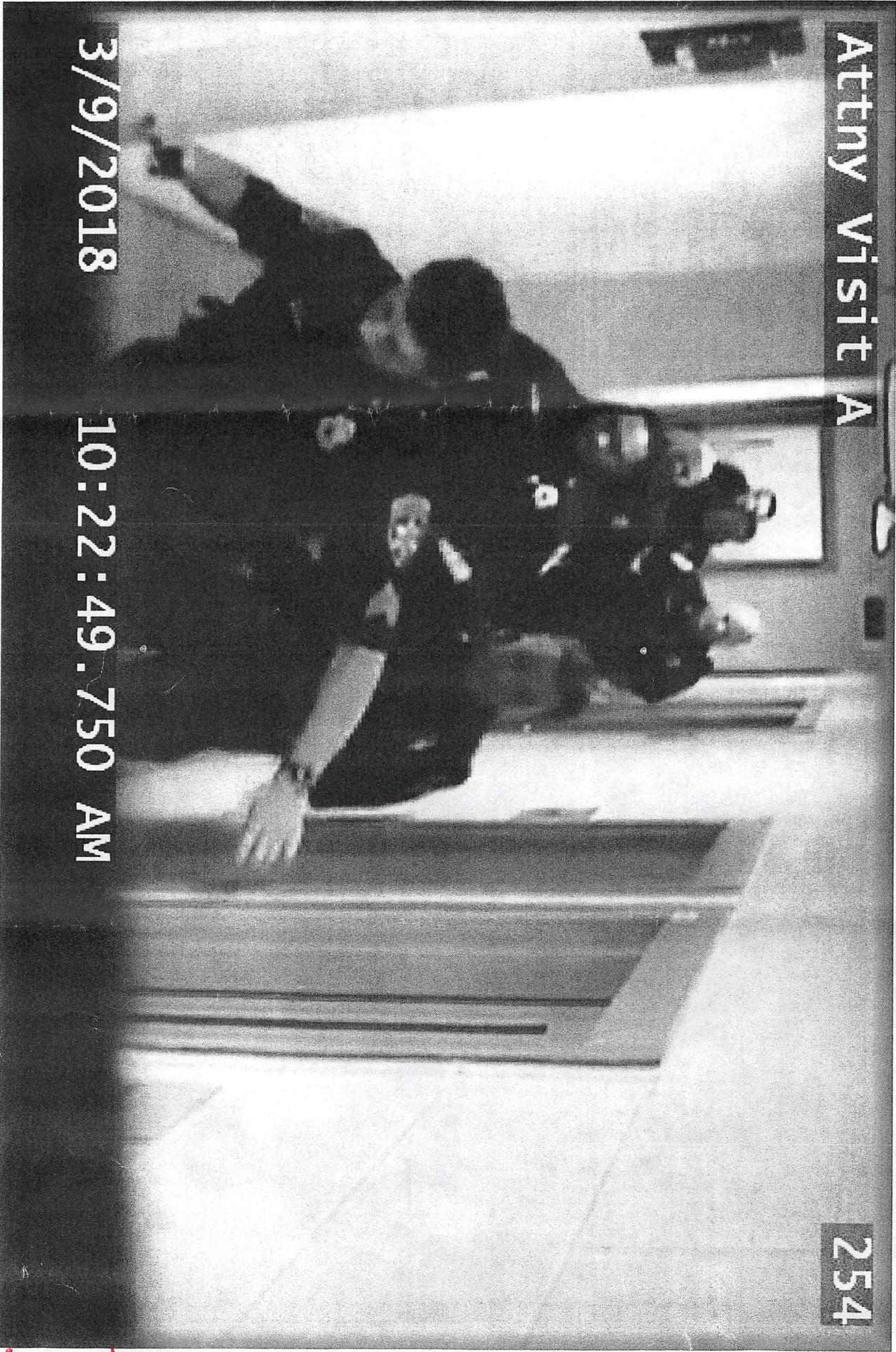
ATTACHMENT 'B'
DUBLINO V. BIGAS G:19-CV-06269-DGL AMENDED COMPLAINT
ONLY A SELECTED FEW PHOTO'S PRODUCED BY ERIE COUNTY HOLDING CENTER.

ATTACHMENT 'A' OPPOSITE SIDE OF PAGE
MARK DUBLINO
On My Own

ATTACHMENT 'C'
ATTACHMENT 'D' ON OPPOSITE SIDE OF PAGE
DUBLINO, BIEGAS 6:19-cv-06269-DGL AMENDED COMPLAINT
* ONLY A SELECTED FEW PHOTOS, PRODUCED BY ERIE COUNTY HOLDING CENTER *

Atttny Visit A

254



3/9/2018
10:22:49.750 AM

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Note: This Photo REFLECTS ALTERING BY CROPPING AND ZOOMING IN ON SUBJECTS
Done with intention to omit action by officer

MARK DUBLINO
BYZELL

ATTACHMENT "D"
DUBLINO V. BIEGAS 6:19-cv-06269-DGL
AMENDED COMPLAINT
* ONLY A SELECTED FEW PHOTOS, PRODUCED BY ERIC COUNTY HOLDING CENTER *

ATTACHMENT "C" ON OPPOSITE SIDE OF PAGE
MARCH 2019 DUBLINO
ATTACHMENT "D"

Atty Visit B

NOTE:

ELEVEN OFFICERS
IN THIS VIEW.

TWENTY ONE
OFFICERS WERE
CRAMMED INTO
A FIVE FOOT
WIDE CORRIDOR
WHICH WERE
OUT OF VIEW
AND OBSTRUCTING
VIDEO COVERAGE

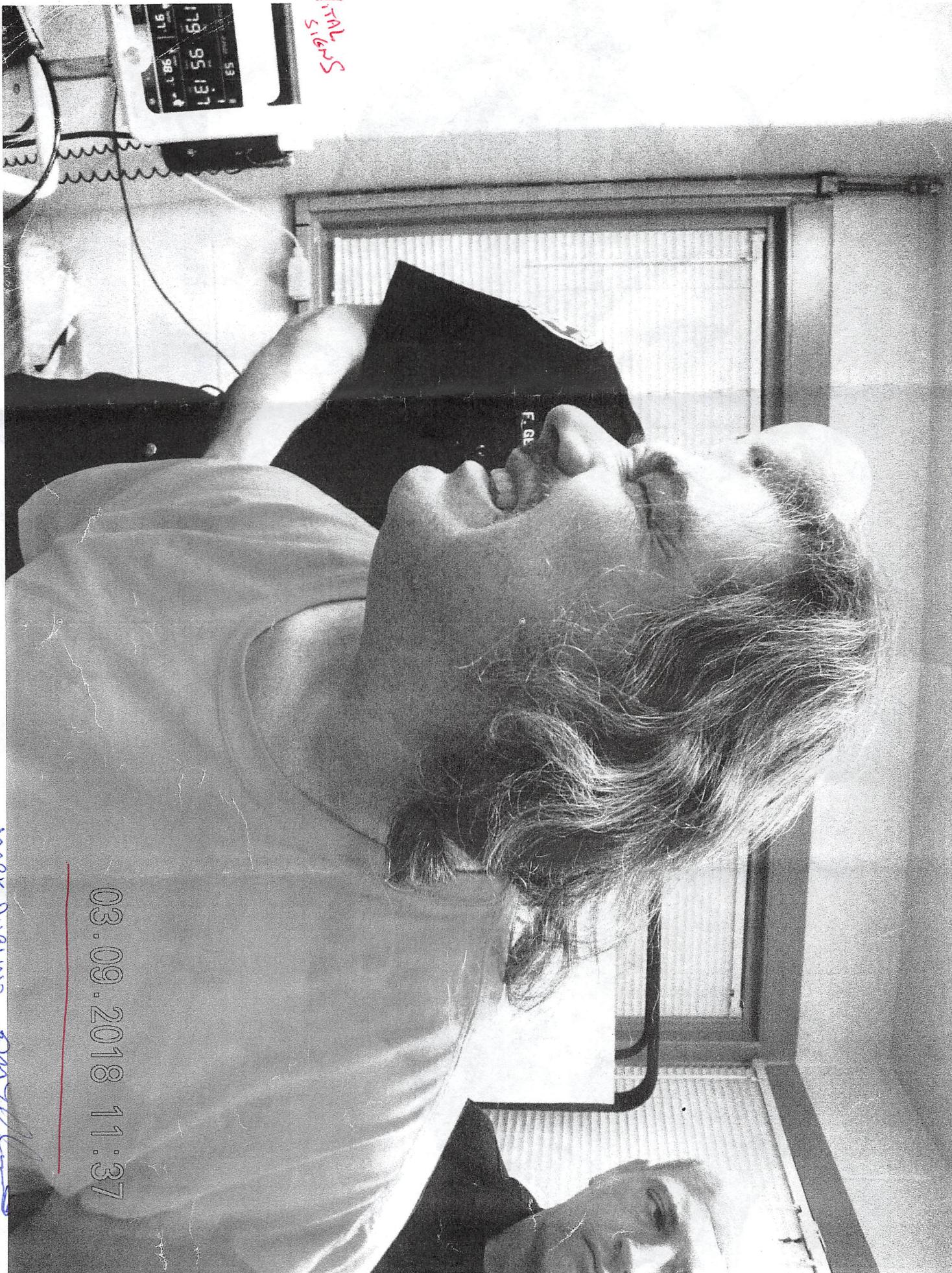


NOTE: THIS PHOTO REFLECTS ALTERING BY ZOOMING IN ON SUBJECTS
DONE WITH INTENTION TO OMIT OFFICERS WHO WERE OBSTRUCTING VIEW

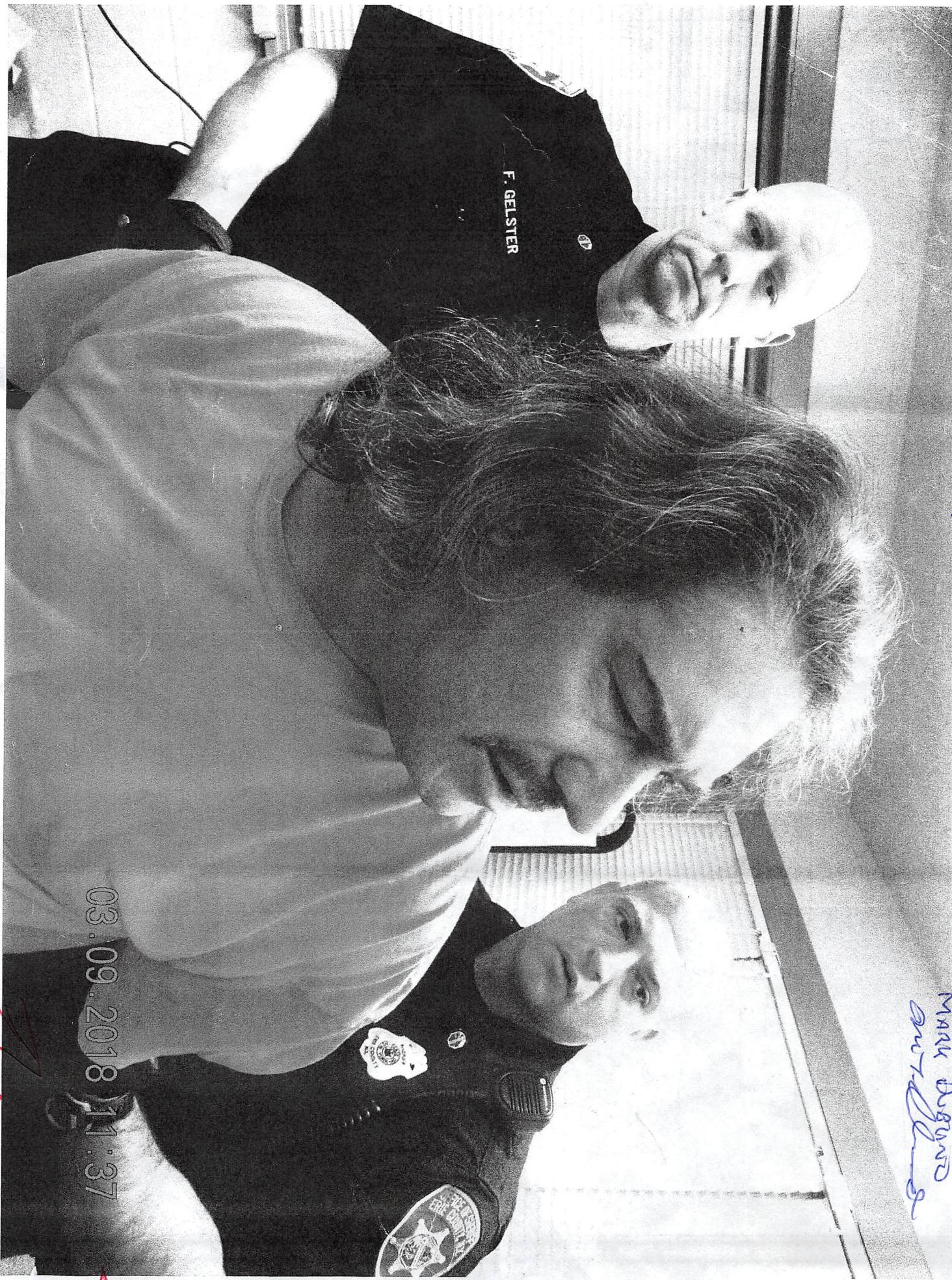
ATTACHMENT 'E' DUBINO V. BIEGAT
AMENDED COMPLAINT

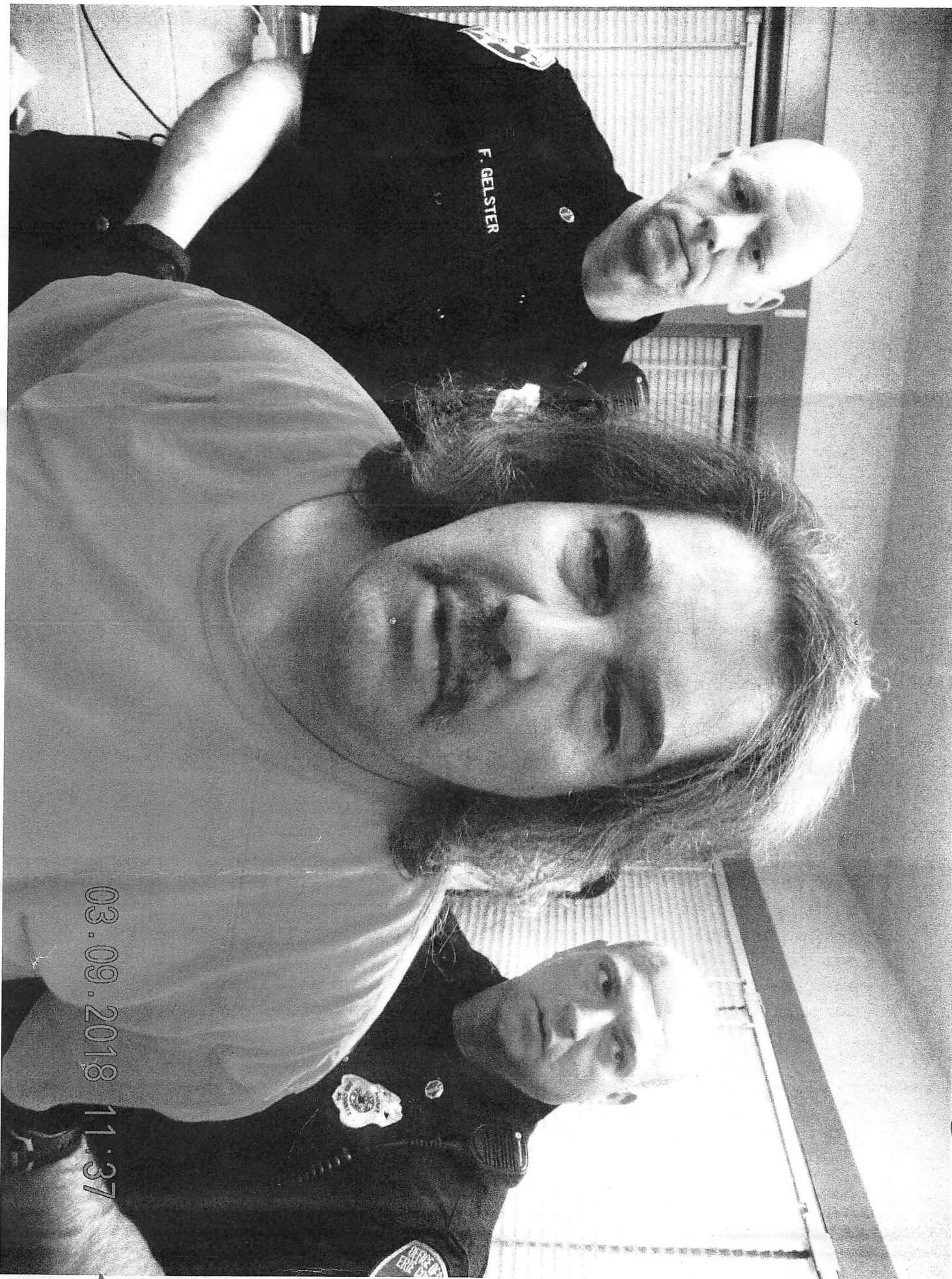
6:19-cv-06269-DGL

SEC: ATTACHMENT 'F' OPPOSITE SIDE



HAND HELD CAMERA - OVER ONE HOUR LATER AT INFIRMARY
MARK DUBINO Plaintiff v. Officers





MARK DUBLINO 6:19-cv-06269-DGL
DUBLINO V. BIEGELAJ AMENDED COMPLAINT

MARK DUBLINO
DUBLINO

HAND HELD CAMERA - OVER ONE HOUR LATER AT INFIRMARY PLAINTIFF & OFFICERS ↑

ATTACHMENT "H"]

DUBLINO V. BIEGAT 6:19-cv-06269-DGL
AMENDED COMPLAINT

MARK DUBLINO
msd



HAND HELD CAMERA - PLAINTIFFS SNEAKER & DOCUMENTS PERTAINING TO: 18-CV-6178-DGL



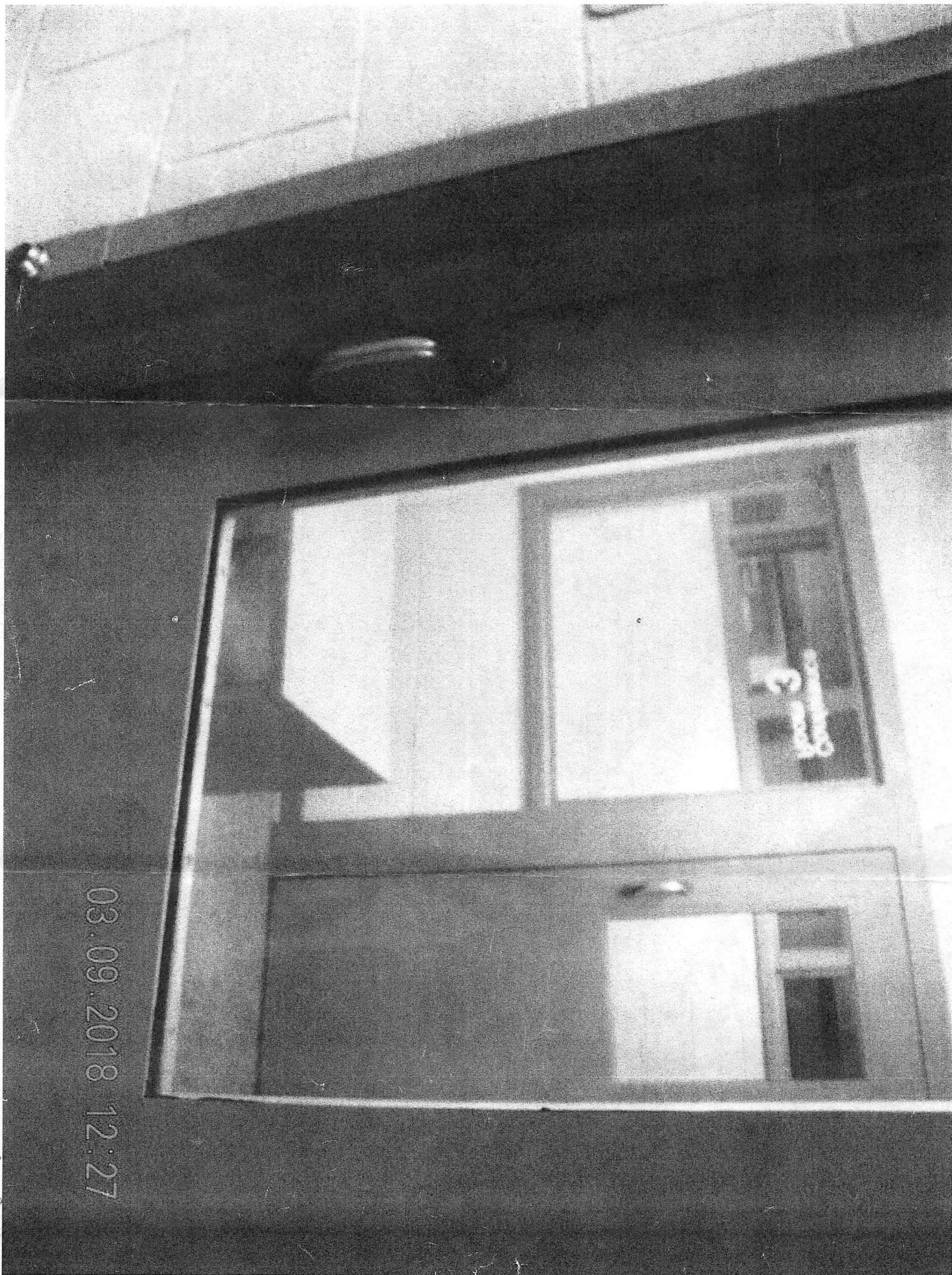
ATTACHMENT "I" DUBLINO V. BIEGEL 6:19-cv-06269-DGL
Amended Complaint

SEE ATTACHMENT "J" OPPOSITE
SIDE

MARK DUBLINO


03.09.2018 12:27

HAND HELD CAMERA - PLAINTIFF'S BROKEN GLASSES & DOCUMENTS TO : DUBLINO V. TERRANOWA
18-cv-6178-DGL



HAND HELD CAMERA - ATTORNEY CONFERENCE Room #3 OVER TWO HOURS LATER

MARK DUBINO
mark

DUBLINO BIEGAT 6:19-cv-06
AMENDED COMPLAINT

SEE ATTACHMENT 'I', OPPOSITE SIDE

ATTACHMENT 'J')

AFFIDAVIT OF SERVICE

STATE OF NEW YORK) ss:
COUNTY OF CAYUGA)

I Mark Dublino, being duly sworn deposes and says:
That on this date Indicated below of notarization
I served a true copy of:

1.) Information on 42 U.S.C. § 1983 Case No. 6:19-cv-06269-DGL

Amended Complaint Dublino v. Biegaj et. al.

* Cation of Action; * Staement of Jurisdiction; * Parties to this Action;
* Previous lawsuits; * Additional page for parties of this action;
* Claim Description; * JS 44 Civil Cover Sheet; *Attachments "A" - "J"

On the following parties:

To: Clerk of Court
Western District of New York
111 Kenneth B. Keating
Federal Building
100 State Street
Rochester, New York 14614

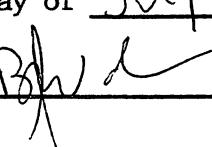
By placing said documents in a properly addressed envelope with facility prepaid postage envelope and inserting in a prison mailbox at
Auburn Correctional Facility.

Date: July 3rd 2019


Mark Dublino; DIn. 18-B-0793
Auburn Correctional Facility
135 State Street
Auburn, New York 13024

Sworn to before me on this

03 day of Jul, 20 19


Notary

BRENDA J WALSH
Notary Public, State of New York
No. 01WA6286594
Qualified in Tompkins County
Commission Expires July 29, 20 21

AUBURN CORRECTIONAL FACILITY

P.O. BOX 618

AUBURN, NEW YORK 13024

NAME: Mark Dublino

DIN: 18-B-0793



AUBURN CORRECTIONAL FACILITY



80 ✓
U.S. POSTAGE > PITNEY BOWES



ZIP 13021 \$ 000.80⁰
02 1W
0001387039 JUL 15 2019

JUL 17 2019

LEGAL MAIL

Clerk of the Court
Western District of New York
U.S. District Court
100 State Street
Rochester New York 14614

14614@1368 c002

